

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Index No.:

-----X
RAFAEL A. CORTORREAL,

COMPLAINT

Plaintiff,

-against-

THE CITY OF NEW YORK, NEW YORK CITY
POLICE DEPARTMENT and ALEX MOROCHO-Police
Officer Shield Number 8265,

Defendants.

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Plaintiff, by his attorneys, RUBENSTEIN & RYNECKI, ESQS., complaining of the defendants herein, upon information and belief, respectfully shows to this Court, and alleges as follows:

**AS AND FOR A FIRST CAUSE OF ACTION
ON BEHALF OF RAFAEL A. CORTORREAL**

1. That at all times hereinafter mentioned, the plaintiff was and still is a resident of the County, City and State of New York.
2. That at all times hereinafter mentioned, the defendant ALEX MOROCHO-Officer Shield Number 8265, was a resident of the County, City and State of New York.
3. That at all times hereinafter mentioned, the defendant, THE CITY OF NEW YORK, was and still is a municipal corporation, duly organized and existing pursuant to the laws of the State of New York.
4. That the defendant, THE CITY OF NEW YORK, maintains a police force known as the NEW YORK CITY POLICE DEPARTMENT.
5. That prior hereto on July 2, 2013, and within the time prescribed by law, a sworn Notice of Claim stating, among other things, the time when and place where the injuries and damages were sustained, together with plaintiff's demands for adjustment or payment thereof, and that thereafter THE CITY OF NEW YORK, refused or neglected for more than (30) days and up to the commencement of this action to make any adjustment or payment thereof, and that

thereafter, and within the time provided by law, this action was commenced.

6. That on September 3, 2013, pursuant to the General Municipal Law, a Statutory 50-H hearing of the plaintiff was held.

7. That on May 2, 2013, and at all times hereinafter mentioned, and upon information and belief, the defendant, THE CITY OF NEW YORK, owned the motor vehicle license plate number 5734, State of New York.

8. That on May 2, 2013, and at all times hereinafter mentioned, and upon information and belief, the defendant, NEW YORK CITY POLICE DEPARTMENT, owned the motor vehicle license plate number 5734, State of New York.

9. That on May 2, 2013, and at all times hereinafter mentioned, and upon information and belief, defendants, THE CITY OF NEW YORK and NEW YORK CITY POLICE DEPARTMENT, jointly owned the motor vehicle license plate number 5734, State of New York.

10. That on May 2, 2013, and at all times hereinafter mentioned, and upon information and belief, the defendant, ALEX MOROCHO-Officer Shield Number 8265, operated the motor vehicle bearing license plate number 5734, State of New York.

11. That on May 2, 2013, and at all times hereinafter mentioned, and upon information and belief, the defendant, ALEX MOROCHO-Officer Shield Number 8265, controlled the motor vehicle bearing license license plate number 5734, State of New York.

12. That on May 2, 2013, and at all times hereinafter mentioned, and upon information and belief, the defendant, ALEX MOROCHO-Officer Shield Number 8265, operated and controlled the motor vehicle bearing license plate number 5734, State of New York.

13. That on May 2, 2013, and at all times hereinafter mentioned, and upon information and belief, the defendant, ALEX MOROCHO-Officer Shield Number 8265, operated and controlled the motor vehicle bearing license plate number 5734, State of New York, with the knowledge, permission and consent of defendant, THE CITY OF NEW YORK.

14. That on May 2, 2013, and at all times hereinafter mentioned, and upon information and belief, the defendant, ALEX MOROCHO-Officer Shield Number 8265, operated and controlled the motor vehicle bearing license plate number 5734, State of New York, with the knowledge, permission and consent of defendant, NEW YORK CITY POLICE DEPARTMENT.

15. That on May 2, 2013, and at all times hereinafter mentioned, and upon information and belief, the defendant, ALEX MOROCHO-Officer Shield Number 8265, was an employee of the defendant, THE CITY OF NEW YORK.

16. That on May 2, 2013, and at all times hereinafter mentioned, and upon information and belief, the defendant, ALEX MOROCHO-Officer Shield Number 8265, was an employee of the defendant, NEW YORK CITY POLICE DEPARTMENT.

17. That on May 2, 2013, and at all times hereinafter mentioned, and upon information and belief, the defendant, ALEX MOROCHO-Officer Shield Number 8265, operated and controlled the motor vehicle bearing license plate number 5734, State of New York, within the scope of his employment.

18. That at all times hereinafter mentioned, on West 181st Street, approximately 150 feet west of St. Nicholas Avenue, County, City and State of New York, was and still is a public highway used extensively by the public in general.

19. That on May 2, 2013, the plaintiff, RAFAEL A. CORTORREAL, was a lawful pedestrian at the aforesaid location.

20. That on May 2, 2013, the aforesaid motor vehicle bearing license plate number 5734, State of New York, negligently struck and injured the plaintiff, RAFAEL A. CORTORREAL, at the aforementioned location.

21. That the above stated occurrence and the results thereof were in no way due to any negligence on the part of the plaintiff contributing thereto, but was caused by the negligence of the defendants in the ownership, operation, management, maintenance and control of their motor vehicle; in operating same without due regard to the rights and safety of the plaintiff; in operating his motor vehicle in a manner which unreasonably endangered the plaintiff; in failing

to properly steer, guide, manage and control his vehicle; in operating same at a rate of speed greater than was reasonable and proper at the time and place of the occurrence; in failing to apply the brakes or slow down or stop in such a manner as would have prevented the occurrence; in failing to have made adequate and timely observation of and response to conditions; in failing to observe signs and signals prevailing at the time and place of the occurrence; in failing to keep a proper look-out when controlling his vehicle; in failing to properly maintain his vehicle according to law; in failing to give adequate and timely signal, notice or warning; in operating his motor vehicle in violation of the traffic rules, regulations, statutes and ordinances in such cases made and provided; and in being otherwise careless, reckless and negligent in the ownership, maintenance, operation and control of their motor vehicle.

22. That by reason of the foregoing and the negligence of the said defendants, this plaintiff sustained serious, severe, and permanent injuries to his limbs and body, still suffers and will continue to suffer for some time, great physical and mental pain and serious bodily injury; became sick, sore, lame and disabled and so remained for a considerable length of time.

23. That by reason of the wrongful, negligent and unlawful actions of the defendants, as aforesaid, the plaintiff sustained serious injuries as defined in the Insurance Law of the State of New York, and has sustained economic loss greater than basic economic loss as defined in said Insurance Law.

24. That by reason of the foregoing and the negligence of the said defendants, this plaintiff is informed and verily believes his aforesaid injuries are permanent and that he will permanently suffer from the effects of his aforesaid injuries and he will be caused to suffer permanent embarrassment and continuous pain and inconvenience.

25. That by reason of the foregoing, this plaintiff was compelled and did necessarily require medical aid and attention and did necessarily pay and become liable therefore, for medicines and upon information and belief, the plaintiff will necessarily incur similar expenses.

26. That by reason of the foregoing, the plaintiff has been unable to attend his usual activity in the manner required.

27. That by reason of the wrongful, negligent and unlawful actions of the defendants, as aforesaid, the plaintiff was severely injured, bruised and wounded, suffered, still suffers, and will continue to suffer for some time great physical pain and great bodily injuries and became sick, sore, lame and disabled and so remained for a considerable length of time.

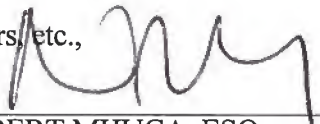
28. This action falls within one or more of the exceptions set forth in CPLR §1602.

29. That as a result of the defendants' negligence as aforesaid, this plaintiff, RAFAEL A. CORTORREAL, has sustained damages both compensatory and exemplary in an amount exceeding the jurisdictional limits of all lower Courts.

WHEREFORE, plaintiff, RAFAEL A. CORTORREAL, demands judgment both compensatory and exemplary in an amount exceeding the jurisdictional limits of all lower Courts, on the **First Cause of Action**; together with attorneys' fees and the costs and disbursements of this action.

DATED: Brooklyn, New York
November 12, 2013

Yours, etc.,



ROBERT MIJUCA, ESQ.
RUBENSTEIN & RYNECKI, ESQS.
Attorneys for Plaintiff
RAFAEL A. CORTORREAL
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File No.: 13RC05-02

ATTORNEY'S VERIFICATION BY AFFIRMATION

ROBERT MIJUCA, ESQ., an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am a Partner at RUBENSTEIN & RYNECKI, ESQS., attorneys of record for the Plaintiff/Plaintiffs, I have read the annexed

SUMMONS AND COMPLAINT

and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files.

The reason I make the foregoing affirmation instead of the Plaintiff/Plaintiffs is because the Plaintiff/Plaintiffs is/are not presently in the County wherein the attorneys for the Plaintiff/Plaintiffs maintain their offices.

Dated: Brooklyn, New York
November 12, 2013


ROBERT MIJUCA, ESQ.